

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

WILLIAM EARL HARRIS, JR.

PLAINTIFF

v.

Civil No. 2:18-CV-02064

JAIL ADMINISTRATOR CAPTAIN
TORRACA, Crawford County Detention
Center (CCDC); NURSE BECKY, CCDC

DEFENDANTS

ORDER

Plaintiff, William Earl Harris, Jr., filed this action *pro se* pursuant to 42 U.S.C. § 1983. (ECF No. 1). Plaintiff's application to proceed *in forma pauperis* was granted on March 29, 2018. (ECF No. 3). An Amended Complaint was filed on May 23, 2018. (ECF No. 10). Currently before the Court is Separate Defendant Rebecca Correro's Motion to Dismiss Pursuant to Rule 41(b). (ECF No. 34). Plaintiff has not responded to the Motion.

On November 5, 2018, Separate Defendant Correro filed a Motion to Compel due to Plaintiff's failure to respond to discovery. The Court granted that Motion and entered an Order to Show Cause on November 27, 2018. (ECF No. 27). The Order directed Plaintiff to provide Separate Defendant Correro with the required discovery responses by December 10, 2018. Plaintiff was advised that "failure to comply with this Order shall result in the dismissal of this case." (ECF No. 27).

Because the Plaintiff has not responded with the required discovery responses, Separate Defendant Correro now seeks dismissal of the action in accordance with Rules 37(b)(2)(v) and 41(b) of the Federal Rules of Civil Procedure.

Although *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984). Additionally, the Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the grounds that the plaintiff failed to prosecute or failed to comply with orders of the court. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (stating that the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on “the plaintiff’s failure to comply with *any* court order.” *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (emphasis added).

Plaintiff has failed to comply with a Court Order directing him to respond to Separate Defendant’s discovery requests and has failed to prosecute this matter. Pursuant to Federal Rules of Civil Procedure 27(b)(2)(v) and 41(b), the Motion (ECF No. 34) should be, and hereby is, **GRANTED**.

Plaintiff’s Complaint as to the Separate Defendant, Nurse Rebecca Correro, is hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED this 29th day of January 2019.

/s/ Mark E. Ford
HON. MARK E. FORD
UNITED STATES MAGISTRATE JUDGE